

Summary of the Minutes
May 2, 2016 Regular Meeting
City of Binghamton Zoning Board of Appeals
City Council Chambers, City Hall

CALL TO ORDER

Chairman Donovan called the meeting to order at 5:15 pm.

ROLL CALL

Present: Landers, Donovan, Appe,
Absent: Pelella, Priest
Vacant Seats: 0
Staff Present: Martinez, Conway

APPROVAL OF MINUTES

No minutes

PUBLIC HEARINGS & DELIBERATIONS

246 Clinton St (2016-13)

Adam Kipp, applicant, appeared to provide information on the Area variance for 0 parking spaces where 28 are required for the expansion of an existing full-service restaurant in the C-4, Neighborhood Commercial District. Kipp stated that he is in the process of purchasing a parking lot across the street; however, that deal is not yet secured. The existing parking lot is legal non-conforming.

The public hearing was opened. No one spoke in favor. Constance and Richard Nappi, 51 Jarvis Street, appeared to speak against the requested parking variance. Major complaints included garbage, blocked driveways, and disrespectful patrons. Mr. and Mrs. Nappi wanted to know when Kipp was planning to acquire the additional parking lot across the street. The applicant responded to their concerns and assured them that he would attempt to alleviate any previously mentioned issues.

Motion to table the public hearing ZBA 2016-13 for the June 6 ZBA meeting

Moved by Donovan, seconded by Appe

Motion carried (3-0-0)

Ayes: Landers, Donovan, Appe,

Nays: None

Absent: Pelella, Priest

50, 52, 54 Conklin Ave (2016-16)

Dennis Kalashnik, applicant, appeared to present his application for a Use Variance to establish a light industrial business (denture manufacturing) in an existing commercial space in the R-3, Multi Unit Dwelling District. The applicant does not need to modify the building in any way and there will be no clients. His purchase agreement was contingent upon the variance's approval. The chairman opened the public hearing. No one spoke in favor or against the proposed variance. The public hearing was closed.

Motion that the Zoning Board of Appeals is the Lead Agency under SEQRA, that the requested Use Variance be designated as an 'Unlisted Action' and to declare a Negative Declaration.

Moved by Appe, seconded by Landers

Motion carried (3-0-0)

Ayes: Landers, Donovan, Appe,

Nays: None

Absent: Pelella, Priest

The board members then moved on to deliberations. The chair addressed the comments from the county. They noted that the board members should determine if the applicant meets the criteria for a use variance and that the property is located in a flood hazard zone. The chair was less concerned due to the fact that it is not new construction. Tito Martinez, Assistant Director of PHCD, noted that the applicant has not proposed any changes to the site and would not be adding impervious surface to the floodplain. He also noted that this property is not suitable for residential use due to flooding issues and that this property had been previously used as a dental office. Since the building has been vacant for a year, the legal non-conforming use did not apply. Additionally, the proposed occupancy represented a change of use, which necessitates the variance.

The board discussed economic deprivation and concluded that the property, as currently zoned, cannot make a reasonable return. The previous property owner was not able to sell his house for five (5) years. It was determined that it was a unique circumstance because the property is in the floodplain and it is not suitable for residential use. The proposed occupation would improve the neighborhood character. It was determined that it is a self-created hardship like most other variance requests; however, if the variance were not approved, the property would remain vacant.

Motion to approve the Use Variance to establish a light industrial business (denture manufacturing) in an existing commercial space in the R-3, Multi Unit Dwelling District

Moved by Donovan, seconded by Appe

Motion carried (3-0-0)

Ayes: Landers, Donovan, Appe,

Nays: None

Absent: Pelella, Priest

50 Vestal Avenue (2016-12)

Kyle Kost, applicant, and Jeff Hammond, Kost Property Manager, appeared to provide information on the requested Use Variance to convert an existing one-unit dwelling into a two-unit dwelling the R-1, Single-Unit Dwelling District. The applicant established that there are multiple means of ingress/egress and Tito Martinez explained to the board members that this will be a part of the building permit process.

The chairman then opened the public hearing. Sue Burns, realtor of the seller, spoke in favor of the variance stating that she has had difficulty selling the property. It had been on the market for around six (6) months. Callie Kavleski, resident of 5 Lennox Drive, appeared to speak against the project. She stated that they should not rent to more than two people because the property is narrow. Judy Kavleski, owner of 5 Lennox Drive, also spoke against the variance because she believe a two-family would compromise the quality of the neighborhood and also the property values of surrounding homes.

The board then moved to deliberations. The board determined that this property was not economically deprived under current zoning law. The house may be hard to sell, but it is not impossible.

Motion to deny the Use Variance as presented.

Moved by Donovan, seconded by Appe

Motion carried (3-0-0)

Ayes: Landers, Donovan, Appe,

Nays: None

Absent: Pelella, Priest

58 Grand Blvd (2016-11)

Christine Kilpatrick and Dr. Michelle Teves, co-applicants, appeared to provide information on the requested Use Variance to establish a personal service business (osteopathic and natural treatment) in the applicants' home in the R-2, Residential One and Two Unit Dwelling District. There would be no diagnostic equipment or prescription distribution.

Tito Martinez established that staff did not have a record of whether or not the property had been used a medical office previously. He did state that the comprehensive plan does recommend these types of activities (owner-occupied businesses in larger homes) in order to promote ownership of the larger homes. The code has not yet been changed to reflect these recommendations; however, they have been established.

The chair then opened the public hearing. William Golemboski, owner of 57 Grand Blvd., spoke in favor of the proposal after he asked a few concerns regarding handicap accessibility to the practice. He established that there would be appropriate transportation as well as a ramp. No one spoke against the variance and no letters were received. The public hearing was closed.

Motion for the Zoning Board of Appeals to establish Lead Agency under SEQRA, that the item be listed as a 'Unlisted Action' and to declare a 'Negative Declaration.'

Moved by Appe, seconded by Landers

Motion carried (3-0-0)

Ayes: Landers, Donovan, Appe,

Nays: None

Absent: Pelella, Priest

The board then moved on to deliberations. The board determined the variance would immediately and significantly improve the value of the property and it sufficiently met the criteria for economic deprivation. That the variance is in line with the city's vision to improve the walkability of the neighborhood. The board established that the request involved unique circumstances because this type of activity would be a good fit for the current neighborhood. It was determined that this is a good solution that would improve the neighborhood character. Lastly it was seen as representative of a desired change to the zoning code, rather than an explicitly self-created hardship.

Motion to approve the Use Variance to establish a personal service business in the applicant's home in the R-2, Residential One and Two Unit Dwelling District.

Moved by Donovan, seconded by Appe

Motion carried (3-0-0)

Ayes: Landers, Donovan, Appe,

Nays: None

Absent: Pelella, Priest

Other Business

- None

ADJOURNMENT

Motion to adjourn.

Moved by Donovan, seconded by Appe

Motion carried (3-0-0)

Ayes: Landers, Donovan, Appe,

Nays: None

Absent: Pelella, Priest